No. 162.
Reply Brf. of Britton, Brooks & Stoll for Appellee

Office Supreme Court U. S.
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JAMES H. MCKENNEY,

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1900.

Filed Feb. 28, 1901.

MOUNTAIN VIEW MINING & MILLING CO.,
APPELLANT,
v.
W. D. McFADDEN ET AL.
No. 162.

MEMORANDUM SUBMITTED BY COUNSEL FOR APPELLEE.

At page 7 of brief for appellant, counsel state:

"A great many mining locations were made upon the "portion of the reservation which was declared to have "been restored to the public domain by the Act of July "1, 1892, and many of those locations have gone to "patent."

If by this statement counsel mean to imply that patents have so issued based upon locations made *prior* to the Act of February 20, 1896, opening these lands to mineral location and entry, the statement is incorrect.

From examination made in the General Land Office, we find that out of eighty-nine mineral entries of this "Col-

"ville Series" which have been patented, eighty-seven are based upon locations made *after* passage of the Act of 1896; one is based upon an original location made prior, and an amended location made subsequent to that Act—the latter location giving validity to the claim, and but *one* based upon a location made prior to the Act of 1896. Such single instance covers the first entry of a mining claim within the Reservation. The local officers in reporting same failed to observe the Commissioner's direction to specially note such cases as of the "Colville "Series," and hence it easily happened that the Examiner here overlooked the fact and locus of the entry, and hence patent was issued through such inadvertence. We recite the facts only to properly answer counsel's statement and to demonstrate the consistent attitude of the U. S. Land Department in its interpretation and enforcement of the Acts of 1892 and 1896, relating to these Colville Reservation lands.

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